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10/786,044

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Ralph Sholinder

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ANTONY C. EDWARDS  
SUITE 200 - 270 HIGHWAY 33 WEST  
KELOWNA, BC V1X 1X7  
CANADA

EXAMINER

GROSSO, HARRY A

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 07/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/786,044

Applicant(s)

SHOLINDER, RALPH

Examiner

Harry A. Grosso

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-19, 21-24, 31 and 32 is/are rejected.
- 7) ☒ Claim(s) 8, 20 and 25-30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/26/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Claims 1 and 13 attempt to use a "means" clause to recite a claim element as a means for performing a specified function, however, since this language does not meet the analysis set forth in MPEP 2181, i.e. "means for" or "step for" is not being used, or no function is set forth, or too much structure is set forth, the Examiner assumes that applicant does not wish to invoke 35 USC § 112, paragraph 6.

### ***Claim Objections***

1. Claims 8 and 20 objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2-7, 14-19, 31 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 2 recites the limitation "said fastener receiving apertures formed through...each said second reinforcing inserts" in lines 18-21 of the claim. There is insufficient antecedent basis for this limitation in the claim. Claims 3-7 are dependent on claim 2.

5. Claim 14 recites the limitation "said fastener receiving apertures formed through...each said second reinforcing inserts" in lines 18-20 of the claim. There is

insufficient antecedent basis for this limitation in the claim. Claims 15-19 are dependent on claim 14.

6. Claim 31 recites the limitation "said first panel of said third and fourth panel" in line 3 of the claim. It is unclear what is intended by this limitation in the claim. Claim 32 is dependent on claim 31.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 9-13 and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Hammond et al (4,020,967) (Hammond).

9. Regarding claim 1, Hammond discloses a rigid modular container with a floor (12, Figures 1-4, column 2, lines 37-55), first and second panels (14) and third and fourth panels (16). There is a rigid fastener bracing means (20) on the outside of the first and second panels and on the inside of the third and fourth panels (36) with apertures for the rigid bracing of the panels.

10. Regarding claim 9, Hammond discloses a planar floor with at least one stiffening rib (24, Figure 4)

11. Regarding claim 10, Hammond discloses an upstanding rim (28, Figure 4) that is in overlapped mating with the edges of the panels.

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12. Regarding claim 11, the rim is fastened to the lowermost edges by the interaction of the inward curve of element (28) and elements (24) and (34) which act as fasteners (column 3, lines 1-6).

13. Regarding claim 12, Hammond discloses the claimed invention except for variation of the size of the third and fourth panels. It would have been an obvious matter of design choice to vary the size of the third and fourth panels, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

14. Regarding claim 13, Hammond discloses a rigid modular container that is collapsible and can be assembled and disassembled as would be a kit. Hammond discloses a rigid modular container with a floor (12, Figures 1-4, column 2, lines 37-55), a lid (80, Figure 9, column 4, lines 58-61), first and second panels (14) and third and fourth panels (16). There is a rigid fastener bracing means (20) on the outside of the first and second panels and on the inside of the third and fourth panels (36) with apertures for the rigid bracing of the panels.

15. Regarding claim 21, Hammond discloses a planar floor with at least one stiffening rib (24, Figure 4)

16. Regarding claim 22, Hammond discloses an upstanding rim (28, Figure 4) that is in overlapped mating with the edges of the panels.

17. Regarding claim 23, the rim is fastened to the lowermost edges by the interaction of the inward curve of element (28) and elements (24) and (34) which act as fasteners (column 3, lines 1-6).

18. Regarding claim 24, Hammond discloses the claimed invention except for variation of the size of the third and fourth panels. It would have been an obvious matter of design choice to vary the size of the third and fourth panels, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

19. Claims 1, 9-13 and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Karpisek (6,234,315).

20. Regarding claim 1, Karpisek discloses a rigid modular container with a floor (6, Figures 1-6), first and second panels (17, 18) and third and fourth panels (15, 16). There is a rigid fastener bracing means (21) on the outside of the first and second panels and on the inside of the third and fourth panels (23) with apertures (holes) through the side edge of the first and second panels for bolt (21) to operate through to engage the adjacent panel and behind fastener (23) for engaging the adjacent panels (column 3, lines 15-25).

21. Regarding claim 9, Karpisek discloses a planar floor with at least one stiffening rib (2, 3, 4).

22. Regarding claim 10, Karpisek discloses an upstanding rim (13, 14, Figures 4-6, column) that is in overlapped mating with the edges of the panels.

23. Regarding claim 11, the rim is fastened to the lowermost edges by links (11) attached to the panels and the corners (10) by pins (column 3, lines 33-47)

24. Regarding claim 12, Karpisek discloses the claimed invention except for variation of the size of the third and fourth panels. It would have been an obvious matter of design choice to vary the size of the third and fourth panels, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

25. Regarding claim 13, Karpisek discloses a rigid modular container that is collapsible and can be assembled and disassembled as would be a kit. Karpisek discloses a rigid modular container with a floor (6, Figures 1-6), a lid (column 3, lines 59-62), first and second panels (17, 18) and third and fourth panels (15, 16). There is a rigid fastener bracing means (21) on the outside of the first and second panels and on the inside of the third and fourth panels (23) with apertures (holes) through the side edge of the first and second panels for bolt (21) to operate through to engage the adjacent panel and behind fastener (23) for engaging the adjacent panels (column 3, lines 15-25).

26. Regarding claim 21, Karpisek discloses a planar floor with at least one stiffening rib (2, 3, 4).

27. Regarding claim 22, Karpisek discloses an upstanding rim (13, 14, Figures 4-6, column) that is in overlapped mating with the edges of the panels.

28. Regarding claim 23, the rim is fastened to the lowermost edges by links (11) attached to the panels and the corners (10) by pins (column 3, lines 33-47)

29. Regarding claim 24, Karpisek discloses the claimed invention except for variation of the size of the third and fourth panels. It would have been an obvious matter of design choice to vary the size of the third and fourth panels, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

#### ***Allowable Subject Matter***

30. Claims 2-7, 14-19, 31 and 32 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

31. Claims 25-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone



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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Nathan Newhouse  
Supervisory Patent Examiner  
Art Unit 3727

hag